

HR Weekly Podcast

March 25, 2015

Today is March 25, 2015, and welcome to the HR Weekly Podcast from the State Human Resources Division. This week's podcast deals with a recent settlement in the case of *EEOC v. EZEFLOW*.

In this case, an employee was hired as a maintenance technician by EZEFLOW, a pipe-fitting manufacturer. The employee began working for EZEFLOW shortly after being discharged from the United States Marine Corps, where he had served in Iraq and Afghanistan. Soon after starting employment with EZEFLOW, he began having seizures, which were caused by post-traumatic stress disorder.

The employee provided EZEFLOW with a doctor's note recommending he stay out of work for six weeks due to his medical issues. The employee had been working for EZEFLOW for about ten weeks when his doctor recommended the six-week absence; however, the company had a 90-day probationary period, which the employee had not yet completed. Per company policy, probationary employees were not eligible for leave. The employee also did not qualify for leave under the Family Medical Leave Act, or FMLA, as he had neither been employed by EZEFLOW for twelve months nor worked at least 1,250 hours during the 12-month period prior to the request for FMLA leave.

During a meeting with a human resources representative, the employee requested the six weeks of leave as a reasonable accommodation under the Americans with Disabilities Act, or ADA. EZEFLOW did not grant the leave due to its policy concerning the 90-day probationary period and terminated the employee.

The Equal Employment Opportunity Commission, or EEOC, then filed an ADA lawsuit claiming that EZEFLOW terminated the employee instead of providing the leave he requested. EZEFLOW settled the lawsuit and paid the former employee \$65,000. In addition, the company promised to conduct extensive training to its employees on the ADA and non-discrimination.

In a blog on www.fmlainsights.com, attorney Jeff Nowak pointed out several take-aways from this case:

- Always engage in the interactive discussion process when an employee requests a reasonable accommodation under the ADA,
- Conduct a hardship analysis to determine if accommodating the employee is possible, and
- Employers may have to provide leave to new hires regardless of whether or not they have a probationary period in place for these employees.

As Nowak puts it, "There is no probationary status under the ADA."

The information in this podcast was taken from an article posted on January 23, 2015, at www.hrmorning.com. Additional information regarding the ADA can be found at www.ada.gov. Thank you.